



MARYLAND DEPARTMENT OF JUVENILE JUSTICE

SECRETARY'S DIRECTIVE

OPI: Division of Departmental Support - Office of Personnel Management
NUMBER: SD D1211-02-01
EFFECTIVE DATE: July 17, 2002
SUBJECT: Acting Capacity and Position Reclassification Policy

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1. **PURPOSE AND SCOPE.** The Department of Juvenile Justice (DJJ) Secretary establishes this Acting Capacity and Position Reclassification Policy Directive to set forth standard procedures for DJJ Management Level Staff to follow when assigning duties to an employee that may warrant a reclassification or designating an employee to receive acting capacity pay when there is more than one employee in an organizational unit qualified. Additionally, this Directive establishes a DJJ manager's responsibility to retain documentation that indicates each specific reason for the selection of a candidate for reclassification or acting capacity pay.

2. **POLICY.** It is the Department of Juvenile Justice policy that an appointing authority shall act in accordance with COMAR 17.04.02 and pay an employee additional compensation (acting capacity pay) when the authority designates an employee to perform, on a temporary basis, all the duties of a position in a classification that has a rate of pay higher than that of the employee's classification.

An appointing authority may elect to assign a filled position additional duties that may warrant its reclassification to a higher classification. An appointing authority shall initiate the position reclassification request so long as the employee of that position meets the minimum qualifications of the higher classification in accordance with COMAR 17.04.02.

An appointing authority shall retain documentation that indicates each specific reason for selecting a qualified candidate to perform additional duties and shall indicate the rationale for selecting an individual whenever there is more than one qualified candidate in an organizational unit.

A Manager shall submit each personnel transaction requesting Acting Capacity and/or Position Reclassification at the **grade 16 level and above** to the Secretary for review and final approval. Additionally, a Manager shall submit each personnel transaction requesting Acting Capacity and/or Position Reclassification for a **grade 15 level and below** to the Director of the Office of Personnel Management for review and approval.

3. **PROGRAM OBJECTIVES.** The expected results of this policy are that DJJ:

- a. Require a Manager to maintain documentation of the specific reason for selecting an individual to perform additional duties in a position that requires a reclassification

and to maintain justification for not selecting a qualified candidate who has greater seniority;

- b. Ensure that each position reclassification, and acting capacity pay designation is completed equitably, without abuse, and in accordance with COMAR 17.04.02 and the guidelines adopted by the Department of Budget & Management (DBM), Office of Personnel Services and Benefits;
- c. Establish a fair and impartial process that a manager shall use to initiate the steps for reclassifying a filled non-temporary position to a higher classification in accordance with COMAR 17.04.02.; and
- d. Establish a fair and impartial process that a manager shall use to initiate the steps for an employee to receive acting capacity pay in accordance with COMAR 17.04.02.

4. **AUTHORITY.**

- a. Annotated Code of Maryland, State Personnel and Pensions Article §4-106,
- b. COMAR 17.04.02.

5. **DEFINITIONS.**

- a. *Acting Capacity* - A Manager's written designation of an employee to perform (**on a temporary basis**) all the duties of a position classification that has a rate of pay higher than an employee's current classification.
- b. *Acting Capacity Pay* - Additional compensation paid to an employee designated in acting capacity who meets the provisions of COMAR 17.04.02.
- c. *Appointing Authority* - The Secretary or designee of the Department of Juvenile Justice with authority to appoint or terminate an individual's employment with the Department.
- d. *Authorized* - When all of the criteria required for the reclassification of a position or acting capacity designation has been met, and documentation has been submitted to the DJJ-Office of Personnel Management and approved by DJJ and/or DBM.
- e. *Designate* - To indicate, in writing, and set apart for a specific purpose or duty.
- f. *Employee* - An individual employed by the Department of Juvenile Justice for wages or salary in a position below the executive level.
- g. *Incumbent* - An individual employed in a specific position.
- h. *Manager* - A Deputy Secretary, Assistant Secretary, Director, Area Director, Assistant Area Director, Superintendent, or Facility Administrator.
- i. *Minimum Qualifications* - The least standard of education and experience that must be complied with for the attainment of a position.
- j. *Organizational Unit* - A group of employees within a given work setting who are rated for performance by the same supervisor.
- k. *Promote* - Advancement of an employee from a position in one classification to a different position in a different classification with higher maximum rate of pay.
- l. *Qualified Candidate* - A non-temporary skilled or professional service employee who meets all requirements of the classification specification or classification description and any selective qualifications of the position.
- m. *Reclassification* - A change of a position from one classification to another classification and maybe to a classification with a higher salary, lower salary, or the

- same salary.
- n. *Secretary* - Secretary of the Department of Juvenile Justice, unless otherwise specified.
- o. *Temporary* - Lasting for a limited time.

6. **ACTION REQUIRED.**

a. **Implementation**

- (1) A Manager shall follow this policy within the scope of his or her responsibility.
- (2) A Manager shall request in writing, using the *Designation of Employee to Function In An Acting Capacity Form (Appendix I)*, that an employee receive acting capacity pay at the time s/he designates an employee to perform in acting capacity. The amount of acting capacity pay shall be an amount that an employee would receive if permanently promoted to the higher classification, unless otherwise provided by law.
- (3) A Manager shall maintain documentation that indicates a specific reason for selecting an individual to perform additional duties in a position whenever a selection may require a position reclassification and shall maintain written justification for selecting one qualified candidate in an organizational unit over another with greater seniority.

b. **Acting Capacity**

- (1) An appointing authority may designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of an employee's current classification for one or more of the following reasons:
 - (i) A temporary absence of an incumbent;
 - (ii) A vacancy exists for which recruitment is underway; or
 - (iii) An unusual circumstance necessitates an assignment of duties at a level higher than that of an employee's classification.
- (2) An appointing authority should use a competitive process in designating an employee for acting capacity whenever feasible and practical.
- (3) An appointing authority shall complete and maintain documentation whenever the competitive process is used or as justification for not using the process to select an employee. Documentation shall include, but not be limited to the following:
 - (i) A reason for authorizing acting capacity;
 - (ii) Justification for selecting an employee designated for acting

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- capacity pay (e.g., selected employee has greater seniority that meet the minimum requirements of the higher level acting capacity than other employees within the unit, or an employee selected is currently on an eligibility list for selection to the acting classification);
- (iii) Justification for designation of one qualified employee over another employee with greater seniority who also meets the minimum requirements of the higher acting capacity classification; and
 - (iv) A reason for extending an individual's acting capacity pay.
- (4) An appointing authority shall ensure that an employee meets the minimum qualifications of a higher level classification, and each special requirement of a position, before s/he designates an employee to receive acting capacity pay. (The Department of Budget & Management, Office of Personnel Services and Benefits may grant an exception to this requirement.)
 - (5) An appointing authority may not designate an employee to perform acting capacity if an employee's classification and the requested higher classification are within the same noncompetitive promotion classification series. **(e.g., Juvenile Counselor I & Juvenile Counselor II Classification)**
 - (6) DJJ may not compensate an employee with acting capacity pay until:
 - (i) A manager has designated an employee in Grades one (1) through ten (10) to perform in a role of acting capacity and an employee has done so for more than ten (10) consecutive work days; or
 - (ii) A manager has designated an employee in Grades eleven (11) or above to perform in a role of acting capacity and an employee has done so for more than twenty (20) consecutive work days.
 - (7) An initial period of acting capacity pay is limited to six (6) months or less. If a period of acting capacity is to be extended beyond the initial six (6) months, a Manager shall request additional periods of acting capacity pay. Each subsequent approval of acting capacity pay may be granted in segments of six (6) months or less.
 - (8) DJJ may not relieve an employee from a period of acting capacity before the completion of the waiting period solely to avoid acting capacity payment, as evidenced by an employee's subsequent return to acting capacity status.
 - (9) DJJ may not rotate employees in an acting capacity position to avoid acting capacity payment and may not recurrently schedule employees in an acting capacity without compensation unless there are unusual

circumstances outside of DJJ control or an employee voluntarily does so.

- (10) DJJ may not negatively evaluate an employee, who is not paid acting capacity pay, for his/her performance in the acting capacity position and may not discipline an employee for actions that relate to the acting position taken in good faith.

c. Position Reclassification

- (1) An appointing authority may assign additional duties and responsibilities to a position that warrants a reclassification and shall indicate this action in writing.
- (2) An appointing authority should consult with the DJJ Office of Personnel Management (OPM), Classification Unit, before assigning new or revised duties and responsibilities.
- (3) An appointing authority shall maintain documentation to indicate the specific reason for a selection of an individual to perform additional duties in a position and shall state the justification for selecting one qualified candidate for additional duties over another in an organizational unit.
- (4) An appointing authority may promote a qualified candidate from within an organizational unit without requiring them to be on an eligible list for a particular classification if a qualified employee is an incumbent in the position that is reclassified and an appointing authority retains pertinent documentation justifying this decision.

Note: (The Secretary of the Department of Budget & Management may void any action taken under this policy when a selected candidate does not meet each requirement of the classification specification and any selective qualifications of a position.)

d. Effective Dates of Position Reclassification and Acting Capacity Pay Designations

- (1) The effective date of a position reclassification shall be the date that a Manager notifies an employee in writing of additional duties and responsibilities warranting a reclassification.
- (2) The effective date for acting capacity designations shall be the date the employee begins to perform the higher level of duties and responsibilities. A manager shall complete a *Designation Of An Employee to Function In An Acting Capacity Form (Appendix 1)*, and submit it to the OPM no later than four (4) weeks after a designation.
- (3) An effective date may not be earlier than one (1) year before the date that a

reclassification or acting capacity pay designation is **approved by DJJ or DBM** or within one (1) year of the date that an employee files a grievance concerning a reclassification or acting capacity pay designation.

- (4) A position reclassification or acting capacity pay designation that is a result of an adoption of a new or revised classification title or new or revised standards by the Secretary of the Department of Budget & Management shall be effective on the date determined by the Secretary of the Department of Budget & Management.

e. Documentation and Reports

- (1) An appointing authority shall complete a Department of Juvenile Justice *Individual Employee Reclassification Request Rule 2 Form (Appendix 2)* and as appropriate, a *Supplement to Rule 2 (Appendix 3)*, and shall submit it to the DJJ OPM for each request for reclassification.
- (2) The DJJ OPM shall retain documentation regarding each promotional reclassification for a period of no less than ten (10) years.
- (3) The DJJ OPM shall retain documentation regarding each acting capacity pay designation for a period of no less than ten (10) years after the acting capacity pay ends.
- (4) An appointing authority shall complete a Department of Budget & Management *Designation of Employee to Function In An Acting Capacity Form (Appendix 1)* for each acting capacity pay action and submit it to the DJJ OPM.
- (5) The DJJ OPM shall provide reports documenting acting capacity pay determination, and promotional reclassifications as required by the Secretary for the Department of Budget & Management.

7. EFFECTIVE DATE.

This directive is effective on 7/17/02 and shall remain in effect until rescinded by the Secretary.

8. DIRECTIVES/POLICIES AFFECTED.

- a. Directives/Policies Rescinded - **(None)**
- b. Directives/Policies Referenced - **(None)**

9. FAILURE TO COMPLY.

Failure to obey a Secretary's Directive and/or policy issued with this document shall be grounds for disciplinary action up to and including termination of employment.



Bishop L. Robinson
Secretary

Appendixes – 3

- 1. Designation of Employee to Function In An Acting Capacity Form, DBM OPSB-MS 345
- 2. Individual Employee Reclassification Request (Rule 2)
- 3. Supplement to Rule 2, DJJ-0093

Maryland Department of Budget & Management
Office of Personnel services and Benefits
DESIGNATION OF EMPLOYEE TO FUNCTION IN AN ACTING CAPACITY

TYPE: 9 A 9 B 9C Delegated 9 Initial Request 9 Renewal
 9 C **Non-Delegated (DBM Approval Required)**
 9 A EPP 9B EPP 9C EPP (DBM Approval Required)

A=Temporary absence of an incumbent

B=Vacant Position

C=Temporary assignment of higher lever duties

I. Identifying Information

_____ Agency or Department	_____ Budget Code
_____ Employee's Name	_____ PIN
_____ Employee's Signature	_____ Employee Social Security #
_____ Permanent Classification Title	_____ Grade
_____ Code	_____ Step
_____ Acting Classification Title	_____ Grade
_____ Code	_____ Step
_____ Date Acting Status Began	_____ Date Acting Pay Effective
_____ Date Acting Pay Ends	
_____ Recommendation from Supervisor (Signature and Date)	_____ Approved by Unit Manager (Signature and Date)

II. Reason for designating an employee to work in an acting capacity

A. Temporary absence of incumbent

_____ Name of Absence Employee	_____ PIN#
_____ Reason for Absence	

B. Vacant Position

_____ Name of Former Incumbent	_____ Vacant PIN
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Reasons agency is unable to fill the vacant position

- ### C. Temporary assignment of higher level duties

Reason or Justification for Assigning Higher Level Duties

Long-Term Intentions for the Position
(Reclassification, Recruitment of New Employee, etc.)

III. Selection Process

- A. We certify that the selected employee meets the minimum qualifications for the acting classification. 9 Yes 9 No

If the answer to this question is **no**, please attach documentation providing the justification for an exception to COMAR 17.04.02.06C (2).

- B. We certify that the selected employee has the greater seniority of other employees within the unit that meet the minimum requirements of the higher level acting classification. 9 Yes 9 No

- C. If there is another employee in the unit with the greater seniority who meets the minimum qualifications for the higher level acting classification or is currently on an eligible list for selection to the acting classification, please explain why the employee listed in the **Identifying Information** section of this form was selected to function in the acting status:

IV. Agency Authorization for Non-EPP Type A, B, C and Delegated Type C ONLY or Agency Approval for Other Types of Acting Capacity

_____ through
Date
(Not to exceed six month for initial approval or renewals)

Date _____

Signature of Appointing Authority

Date Authorized

V. Department of Budget and Management Authorization for all Executive Pay Plan and Non-Delegated Type C Acting Capacity Requests

_____ through
Date

Date _____

DBM Authorizing Signature

Date Authorized _____

TO: Office of Personnel Management

FROM:

RE: Individual Employee Reclassification Request (Rule 2)

DATE:

Individual Selected: _____	Existing Classification: _____
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Social Security Number: _____	PIN Number: _____
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Requested Classification: _____	Requested Effective Date: _____
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Name of organizational unit where the requested classification/function exists: _____

Explain the means of recruitment, including what has been defined as the organizational unit and why?

The above specified unit supervisor's name: _____

Signature: _____ Date: _____

List all employee(s) qualified meeting SPPA specifications, minimum qualifications for the higher class in the above specified organizational unit (If none, indicate):

<u>NAME</u>	<u>CLASSIFICATION</u>	<u>RACE</u>	<u>SEX</u>	<u>SS#</u>
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Justification for reclassification of individual selected: (may include experience, training, work performance, seniority, or the fact that no other competition exists for the job):

The following necessary papers are attached:

___ MS-100 for the individual selected ___ MS-22 Position Description

___ Organizational Chart (for supervisory position action)

Reviewed by: _____

Attachments

SUPPLEMENT TO RULE 2

Describe why and how this position has changed since last studied:

Identify individuals performing similar duties (may include individuals within the Division, Administration or the Department):